

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3145
Administrative Law Judge Division
January 13, 2005

R E S O L U T I O N

RESOLUTION ALJ 176-3145. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 13, 2005, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President

GEOFFREY F. BROWN

SUSAN P. KENNEDY
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3145 (1/13/05)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-12-007 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for a Certificate of Public Convenience and Necessity concerning the Antelope-Pardee 500 kV (Segment 1) Transmission Project as required by Decision 04-06-010 and as modified by subsequent assigned Commissioner Ruling.	Ratesetting	Ratesetting	YES
A04-12-008 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for a Certificate of Public Convenience and Necessity concerning the Antelope-Vincent 500 kV (Segment 2) and Antelope-Tehachapi 500 kV and 220 kV (Segment 3) Transmission Projects as required by Decision 04-06-010 and as modified by subsequent assigned Commissioner Ruling.	Ratesetting	Ratesetting	NO
A04-12-009 H.I.G. SUPRA, INC., SUPRA TELECOMMUNICATIONS AND INFORMATION SYSTEMS, INC., for authorization to complete a transfer of Control of Supra Telecommunications and Information Systems, Inc. (U 6100-C), to H.I.G. Supra, Inc.	Ratesetting	Ratesetting	NO
A04-12-014 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), for authority, among other things, to increase its authorized revenues for electric service in 2006 and to reflect that increase in rates.	Ratesetting	Ratesetting	YES
A04-12-015 FIRST COMMUNICATIONS LLC, FIRSTENERGY CORP., MCKINLEY COMMUNICATIONS LLC, for approval of the transfer of control of First Communications, LLC to McKinley Communications, LLC, pursuant to Public Utilities Code Section 854.	Ratesetting	Ratesetting	NO
A04-12-016 CB RILEY INVESTOR LLC, CERBERUS ASSOCIATES, L.L.C., CERBERUS PARTNERS, L.P., LNR PROPERTY CORPORATION, RILEY MEZZANINE CORP., RILEY PROPERTY HOLDINGS LLC, VALENCIA WATER COMPANY, to acquire indirect control over Valencia Water Company (U 342-W)	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-12-019 M & A INTERNATIONAL GROUP, LLC, to Modify its existing Passenger Stage Corporation Certificate #12938 to add a scheduled route between the Oxnard Airport (OXN) in the City of Oxnard, on the one hand, and the Los Angeles World Airport (LAX), on the other hand.	Ratesetting	Ratesetting	NO
A04-12-020 DEDIC, ENES, dba AIRPORT CITY SHUTTLE, for authority to operate as a shuttle service on call, passenger stage corporation between points in Bay Area cities and Bay Area airports, and to establish a zone of rate freedom.	Ratesetting	Ratesetting	NO
A04-12-021 SF VIP COACH TOURS, INC., dba SAN FRANCISCO CITY SHUTTLE/COSME MOLINA, to sell and transfer ownership of San Francisco City Shuttle and PSC 7771 Certificate from SF VIP Coach Tours, Inc., to Cosme Molina.	Ratesetting	Ratesetting	NO
A04-12-022 GO 2 TEL.COM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A04-12-024 PACIFICORP (U 901-E), for an Accounting Order regarding treatment of certain Interest Expenses associated with its Hydro Re-Licensing Obligations.	Ratesetting	Ratesetting	YES
A04-12-027 STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, for Authorization to construct a New Grade Separation, P.U.C. Bridge Number (to be assigned), over tracks owned by the Union Pacific Railroad Company in the County of Madera.	Ratesetting	Ratesetting	NO
A04-12-028 STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, for Authorization to construct a Grade Separation that will be known as the Mission Avenue Overhead, P.U.C. Bridge Number (to be assigned), over tracks owned by the Union Pacific Railroad Company in the County of Merced.	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A04-12-029 ALLIANCE GROUP SERVICES, INC., for a Certificate of Public Convenience and Necessity to provide Facilities-Based Interexchange services statewide.	Ratesetting	Ratesetting	NO
A05-01-001 MERCEDNET, INC., for authority to terminate service, withdraw its tariff, and surrender its certificate of public convenience and necessity.	Ratesetting	Ratesetting	NO
A05-01-002 DELOSREYES, DENNIS & VARGAS, RICHARDO, LUNA, HECTOR, for authorization to sell and transfer ownership of Babes Airporter and Passenger Stage Certificate #13017 from Dennis Delosreyes and Richardo Vargas to Hector Luna.	Ratesetting	Ratesetting	NO
A05-01-003 PACIFIC TERMINALS LLC, for authorization to dispose of certain real property located in the City of Huntington Beach.	Ratesetting	Ratesetting	NO
A05-01-004 INFOTELECOM, LLC, for a Certificate of Public Convenience and Necessity to provide Resold and Limited Facilities-Based Local Exchange and Interexchange Telecommunications Services within California.	Ratesetting	Ratesetting	NO
A05-01-005 SOUTHWEST COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A05-01-006 POWERCOMM COMPANY, INC., for authority to operate as an on-call Passenger Stage Corporation between points in the Counties of Orange, Los Angeles, San Bernardino, Riverside and Ventura, on the one hand, and the Los Angeles, the Orange County (John Wayne) and Ontario International Airports, on the other hand; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A05-01-007 NETWORK INTERNATIONAL SOLUTIONS, INC., for a Certificate of Public Convenience and Necessity to provide Facilities-Based and Resale Competitive Local Exchange Services within the California Service areas of Pacific Bell and GTE California, Inc.	Ratesetting	Ratesetting	NO